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COMMITTEE ON THE RIGHTS OF THE CHILD

Fifteenth session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 44 OF THE CONVENTION

Concluding observations of the Committee on the Rights of the Child: Algeria

1. The Committee considered the initial report of Algeria (CRC/C/28/Add.4) at its 387th to 389th meetings (CRC/C/SR.387 to 389) held on 29 and 30 May 1997 and adopted* the following concluding observations:

A. Introduction

2. The Committee expresses its appreciation to the State party for the submission of its initial report as well as for the written answers to its list of issues (CRC/C/Q/ALG.1). The Committee also expresses its satisfaction to the State party for engaging in an open and constructive dialogue with the Committee. It particularly wishes to express its satisfaction at the self-critical approach and it welcomes the positive response to the suggestions and recommendations made during the course of the discussion. However, the Committee regrets that, while the report provided comprehensive information on the national legislation relating to the promotion and protection of the rights of the child, it failed to provide information on factors and difficulties impeding the implementation of the Convention and the actual enjoyment by children of their rights.

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* At the 398th meeting, held on 6 June 1997.

B. Positive aspects

3. The Committee notes with appreciation that the Convention is fully incorporated into domestic law and that under article 132 of the Constitution international conventions are superior to domestic law. It also notes with appreciation that the provisions of the Convention are self-executing and may be invoked directly before the courts.

4. The Committee welcomes the initiatives taken by the Government, such as the setting up of a National Human Rights Observatory in 1992 and, more recently, of an Observatory of the Rights of the Mother and the Child. The Committee also notes with satisfaction the setting up in each wilaya of Directorates for social action, entrusted with the task, inter alia, of monitoring the implementation of policies adopted in respect of children. Furthermore, the Committee welcomes the adoption, following the World Summit for Children, of the National Plan of Action for the Survival, Protection and Development of Children.

5. The Committee also welcomes the introduction in January 1997, in cooperation with the United Nations Children's Fund (UNICEF), of a national communication programme in the sectors of health, education, social welfare, youth, sports, information and culture with the collaboration of information bodies such as the national agency for filmed news, television, radio and the press, with a view to ensuring, inter alia, wide dissemination of the principles and provisions of the Convention.

6. The Committee notes with appreciation that education is free at all levels, and that attendance is nearly universal. The Committee also notes with satisfaction that health services are free for all children and that a national programme of health care in schools has been developed.

7. The Committee notes with appreciation that, in accordance with article 32, paragraph 2 (a), of the Convention, article 15 of Act No. 90-11 of 21 April 1990 provides that the minimum age for employment is 16, with the only exception being apprenticeship contracts established in accordance with the law.

8. The Committee notes that, in accordance with article 39 of the Convention, steps have been taken to provide special services to assist children who are victims of the violence prevailing in the country, in order to promote physical and psychological recovery and social reintegration of those children.

C. Factors and difficulties impeding the implementation of the Convention

9. The Committee acknowledges that the severe economic and social difficulties facing the country have had a negative impact on the situation of children. In particular, it notes that the high level of external debt, the requirements of structural adjustment programmes, the high level of unemployment and poverty, and the existence of prejudicial traditional practices and customs are among the factors impeding the full enjoyment of their rights by children.

10. The Committee also notes that the continuing violence in Algeria since 1992 has had a negative impact on the implementation of certain provisions of the Convention.

D. Principal subjects of concern

11. The Committee notes that Algeria has made interpretative declarations on articles 13, 14, paragraphs 1 and 2, and articles 16 and 17, of the Convention. In this respect, the Committee is of the opinion that the concerns expressed by the State party in its declarations are duly reflected in the relevant provisions of the Convention, and it expresses the view that retaining such declarations could lead to misunderstandings about the State party's commitment to implementing the rights covered by these articles.

12. The Committee notes with concern that inadequate measures have been taken by the State party to harmonize national legislation with the principles and provisions of the Convention. The Committee notes in particular that the Family Code currently in force in Algeria does not adequately address all the rights recognized in the Convention. The Committee also notes with concern that the legal provisions relating to the protection and promotion of the rights of the child are scattered throughout domestic laws, making it difficult to assess the actual legal framework in the field of children's rights.

13. The Committee, while noting with appreciation the existence of various government bodies responsible for the welfare of children at the national and local levels, regrets the inadequate coordination among these bodies in promoting and protecting the rights of the child and developing a comprehensive approach to the implementation of the Convention.

14. Although acknowledging that efforts have been made to promote awareness of the provisions of the Convention in schools, the Committee remains concerned that insufficient steps have been taken to date to promote awareness and understanding of the principles and provisions of the Convention among both children and adults. The Committee is particularly concerned that the training on children's rights provided to members of the police and security forces and other law enforcement officials, judicial personnel, teachers at all levels of education, social workers and medical personnel is insufficient and unsystematic.

15. The Committee is concerned that no adequate measures have been taken for the systematic collection of disaggregated quantitative and qualitative data on the areas covered by the Convention in relation to all groups of children in order to evaluate progress achieved and assess the impact of policies adopted with respect to children.

16. The Committee notes with concern that the principles of the best interests of the child, respect for the views of the child, and his or her right to participate in family, school and social life are not fully reflected in domestic legislation or implemented in practice. In this respect, the Committee regrets that the main thrust of the Convention, i.e. children as subjects of their own rights, is not adequately reflected in Algerian legislation. The Committee notes with concern that while articles 117 and 124

of the Family Code provide that children with discernment are consulted in matters concerning them, article 43 of the Civil Code does not recognize discernment for children under 16. Furthermore, the Committee expresses its concern at the lack of specific mechanisms to register and address complaints from children concerning violations of their rights under the law and the Convention.

17. The Committee expresses its concern at the existence of discriminatory attitudes towards girls and children born out of wedlock among some groups within the population.

18. With regard to the implementation of article 4 of the Convention, the Committee notes the lack of adequate legislative, administrative and other measures to ensure the full implementation of children's economic, social and cultural rights to the maximum extent of the State party's available resources, in particular for the most vulnerable children, including girls, children with disabilities, abandoned children, children born out of wedlock, children from single-parent families, children victims of abuse and/or exploitation, and nomadic and refugee children.

19. The Committee notes with concern the absence of specific and adequate regulations governing the registration of children, in accordance with article 7, paragraph 1, of the Convention, who are members of nomadic groups.

20. The Committee notes with deep concern that the law applicable in the case of rape of a minor excuses the perpetrator of the crime from penal prosecution if he is prepared to marry his victim. Furthermore, in order to legitimize celebration of marriage which would otherwise contravene the law, article 7 of the Algerian Family Code allows the judge to lower the age for marriage if the victim is a minor.

21. The Committee is concerned at the lack of appropriate measures to combat and prevent ill-treatment and abuse within the family, and at the lack of information on this matter. The Committee is further concerned that disciplinary measures in schools often involve corporal punishment, although it is prohibited by law.

22. The Committee notes with regret the lack of information on the situation of refugee children in Algeria, especially with reference to their access to health care and education, as provided for by article 22, paragraph 1, of the Convention.

23. The Committee expresses regret at the lack of information on programmes of education and health-care services, in accordance with article 30 of the Convention, for nomadic children.

24. The Committee notes with concern the inadequacy of the mechanisms to monitor the implementation of Act No. 90-11 of 21 April 1990, regulating the employment of minors in the private and agricultural sectors.

25. While noting that the domestic legal texts governing the administration of juvenile justice take into account the principles and provisions of

the Convention, the Committee regrets the lack of information on the implementation of these texts and on the actual enjoyment of their rights by children involved with the administration of juvenile justice.

26. The Committee notes with concern that, under article 249 of the Code of Criminal Procedure, children between 16 and 18 suspected of terrorist or subversive activities are tried in criminal courts as adults. The Committee takes note of article 50 of the Criminal Code, which prohibits the sentencing of a minor to capital punishment or life imprisonment, the Committee regrets that it remains unclear whether the legal regime applicable to those minors with respect to trial proceedings and the execution of the sentence is that applicable to minors or to adults.

27. The Committee notes with concern the lack of preventive measures to address the effects of violence on children. It notes in particular that the number of orphans has recently risen as a direct consequence of violence, and that no specific measures seem to have been adopted to address the problem.

E. Suggestions and recommendations

28. The Committee suggests that the State party consider reviewing its interpretative declarations with a view to withdrawing them, in the spirit of the Vienna Declaration and Programme of Action.

29. The Committee recommends that the State party bring existing legislation into line with the principles and provisions of the Convention, and that it consider the possibility of enacting a comprehensive code for children.

30. The Committee recommends that further steps be taken by the State party to strengthen coordination between the various government bodies involved in children's rights, at both national and local levels, and that greater efforts be made to ensure closer cooperation with non-governmental organizations working in the field of human and children's rights.

31. The Committee recommends that greater efforts be made to ensure that the provisions of the Convention are widely known and understood by both adults and children. The Committee also recommends that systematic training and retraining programmes on the rights of the child be organized for professional groups working with and for children, such as judges, lawyers, magistrates, law enforcement personnel, army officials, teachers, school managers, health personnel, social workers, officials of central or local administrations and personnel of child-care institutions.

32. The Committee also recommends that the system of data collection be reviewed, with a view to incorporating all the areas covered by the Convention. Such a system should include all children, with specific emphasis on vulnerable children and children in especially difficult circumstances. Adequate disaggregated data should be gathered and analysed in order to assess progress achieved in the realization of children's rights and to help define policies to be adopted to better implement the provisions of the Convention. With respect to the latter issue, the Committee recommends that further

studies and follow-up surveys on vulnerable groups of children be initiated and that the State party consider requesting technical assistance from the United Nations Children's Fund (UNICEF).

33. The Committee recommends that further efforts be made to ensure that national laws conform fully with the Convention, having due regard to the best interests of the child, non-discrimination, the respect for the views of the child and his or her right to participate in family, school and social life, and the right of the child to life, survival and development. Awareness-raising campaigns should be launched, in particular among children, parents and professionals working with and for children, on the need for increased attention to these principles. In this regard, the Committee suggests setting up an independent mechanism such as an Ombudsperson for Children responsible for receiving and acting on complaints from children of violations of their rights under the law and the Convention.

34. In light of article 4 of the Convention, the Committee recommends that priority be given in budget allocations to the realization of the economic, social and cultural rights of children, with particular emphasis on the enjoyment of these rights by disadvantaged children.

35. The Committee recommends that special attention be given to the problems of ill-treatment and abuse, including sexual abuse, of children within the family and corporal punishment in schools, and stresses the need for information and education campaigns to prevent and combat the use of any form of physical or mental violence on children, in accordance with article 19 of the Convention. The Committee also suggests that comprehensive studies on these problems be initiated in order to understand them better and to facilitate the elaboration of policies and programmes, including rehabilitation programmes, to combat them effectively.

36. The Committee recommends that all necessary measures be adopted to ensure the immediate registration of the birth of nomadic children.

37. The Committee recommends that further steps be taken to ensure that nomadic children have access to education and health-care services through a system of specifically targeted education and health-care schemes which will allow these children to enjoy their right, in community with other members of their group, to their own culture, as stipulated in article 30 of the Convention.

38. The Committee recommends that further attention be paid to the full realization of the rights of refugee children under article 22 of the Convention.

39. The Committee further recommends that all necessary measures be adopted to monitor the implementation of Act No. 90-11 of 21 April 1990, in particular in the private and agricultural sectors of the economy, through strengthening existing inspection mechanisms.

40. With respect to the administration of juvenile justice, the Committee draws the attention of the State party to articles 37, 39 and 40 of the Convention, as well as to relevant United Nations standards such as the

Beijing Rules, the Riyadh Guidelines and the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. The Committee recommends in particular that in the implementation of special rules and regulations relating to terrorist and subversive activities, special attention be given to the implementation of articles 37 (a), (c) and (d), and 40, paragraph 3, of the Convention.

41. The Committee recommends that appropriate measures be adopted with a view to preventing to the maximum possible extent the negative impact of prevailing violence, through education and information campaigns in schools on peaceful cohabitation and peaceful resolution of conflicts. It also recommends that steps be taken to address the specific problem of the rising number of children orphaned by this violence.

42. Finally, the Committee recommends that, in light of article 44, paragraph 6, of the Convention, the initial report and written replies presented by the State party be made widely available to the public at large and that the publication of the report be considered, along with the relevant summary records and the concluding observations adopted thereon by the Committee. Such a document should be widely distributed in order to generate debate and awareness of the Convention and its implementation and monitoring within the Government, the Parliament and the general public, including concerned non-governmental organizations.